

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

January 8, 2001

**D036718        In re Brown on Habeas Corpus**

The petition is denied.

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Terry O'Rourke  
Deputy Clerk: D. E. Moore

**D036444        Anders v. Rose**

Cause called on merits. Bret Shefter, Esq. argued for appellant. David Peter Crochetiere, Esq. argued for respondent. Mr. Shefter replied for appellant. Cause submitted.

Court recessed at 9:23 a.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Richard Huffman and Alex McDonald

**D033201        Walsh, et al. v. Bristol-Myers Squibb Company, et al.**

Cause called on merits. Hall Marston, Esq. argued for respondent. Christina Anne Fountain, Esq. argued for appellant. Cause submitted.

Court recessed at 9:40 a.m. until 1:30 p.m.

**D036201        In re Brian W., a Juvenile**

The judgment is affirmed. Huffman, Acting P.J., We Concur: Nares, J., Haller, J.

**D036740        In re Harmon on Habeas Corpus**

The petition is denied.

**D035127        Prust v. Stoyan et al.**

The judgment is affirmed. Kremer, P.J.; We Concur: Huffman, J., Haller, J.

Court reconvened at 1:30 p.m.

Present: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Judith Haller and Alex McDonald  
Deputy Clerk: D. E. Moore

**D035159        State of Wisconsin v. Devine et al.**

Cause called on merits. William L. Conti, Esq. argued for appellant. Anne C. Murphy, Deputy Attorney General argued for respondent. Mr. Conti replied for appellant. Cause submitted.

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January 8, 2001 (Continued)

**D035298      Jobe v. Amvets Department of California Service Foundation, Inc.**

Cause called on merits. Dale Larabee, Esq. argued for appellant. Deb C. Pedersdotter, Esq. argued for respondent. Mr. Larabee replied for appellant. Cause submitted.

**D034383      People v. Contreras**

Cause called on merits. Roberta K. Thyfault, Esq. argued for appellant. Crystal Cavanaugh, Deputy Attorney General argued for respondent. Ms. Thyfault replied for appellant. Cause submitted.

**D036410      Rollins Leasing Corporation v. Proficient Foods Company**

Cause called on merits. Curtis A. Cole, Esq. argued for appellant. Steven Katz, Esq. argued for respondent. Mr. Cole replied for appellant. Cause submitted.

**D036423      Weisenfluh v. University of California Irvine**

Cause called on merits. Michael William Kinney, Esq. argued for appellant. Carolyn Oill, Esq. argued for respondent. Mr. Kinney replied for appellant. Cause submitted.

Court recessed at 3:50 p.m. until Tuesday, January 9, 2001 at 9:00 a.m.

**D036565      Craig W. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The petition is denied. McIntyre, J.; We Concur: Huffman, Acting P.J., Haller, J.

COURT OF APPEAL OF STATE OF CALIFORNIA  
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DIVISION ONE

January 9, 2001

**D036937 Planet Polymer Technologies, Inc. v. To et al.**

The appeal is dismissed as non-appealable.

**D035627 Fields v. Fields**

Upon filing an abandonment of appeal, the appeal is dismissed.

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Alex McDonald and Terry O'Rourke

Deputy Clerk: D. E. Moore

**D035345 People v. Cambaliza**

Cause called on merits. Kyle Niki Shaffer, Deputy Attorney General argued for appellant.

Patrick Morgan Ford, Esq. argued for respondent. Ms. Shaffer replied for appellant. Cause submitted.

**D035488 Accucom Wireless Services, Inc. v. Cubic Communications, Inc.**

Cause called on merits. Jay Hanson, Esq. argued for appellant. Michael L. Kirby, Esq. argued for respondent. Mr. Hanson replied for appellant. Cause submitted.

**D036493 Abbiss et al. v. Riley Stoker Corporation**

Cause called on merits. Diana Abraham, Esq. argued for appellant. Carla Crochet, Esq. argued for respondent. Ms. Abraham replied for appellant. Cause submitted.

Court recessed at 10:22 a.m. to change panel members. New panel members: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Terry O'Rourke

**D035158 National City Police Officers' Association v. City of National City**

Cause called on merits. Bradley Fields, Esq. argued for appellant. Rudolf Hradecky, Esq. argued for respondent. Mr. Fields replied for appellant. Cause submitted.

**D034305 Grgat v. Discount Tire Company, Inc.**

Cause called on merits. Can Sirin, Esq. argued for appellant/cross-respondent.. John Wynne, Esq. argued for respondent/cross-appellant. Mr. Sirin replied. Cause submitted.

Court recessed at 11:40 a.m. until 1:30 p.m.

**D037130 ONYX Acceptance Corporation v. Superior Court of San Diego County/Geller et al.**

The petition is denied.

**D032128 Dowling v. Zimmerman**

**D032824 Dowling v. Zimmerman**

The petition for writ of supersedeas is consolidated with the pending appeal for disposition.

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

January 9, 2001 (Continued)

**D032128 Dowling v. Zimmerman**

**D032824 Dowling v. Zimmerman**

The judgment is affirmed and Dowling's petition for writ of supersedeas is denied. Zimmerman shall recover her attorney fees and costs on appeal as the prevailing defendant under subdivision (c) of section 425.16, in addition to her costs in the related writ proceeding. The cause is remanded for a determination by the court of the amount of reasonable attorney fees and costs Zimmerman shall recover from Dowling under the provisions of section 425.16, subdivision (c). CERTIFIED FOR PUBLICATION. Nares, J.; We Concur: Benke, Acting P.J., Huffman, J.

**D033217 People v. Meza et al.**

The judgments are reversed. Kremer, P.J.; We Concur: Huffman, J., Haller, J.

**D036448 People v. Lopez**

The judgment is affirmed. The clerk of the superior court is ordered to correct the abstract of judgment in a manner consistent with the directions set forth in this opinion, and to forward a corrected copy to the Department of Corrections. Nares, J.; We Concur: Kremer, P.J., Haller, J.

**D034593 People v. Sakey**

The abstract of judgment is ordered amended to delete reference to the convictions of violation of Penal Code section 273a, child endangerment (counts 3 and 4), and the trial court is directed to provide the amended abstract to the Department of Corrections. Huffman, Acting P.J., We Concur: McDonald, J., O'Rourke, J.

Court reconvened at 1:30 p.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Alex McDonald  
Deputy Clerk: D. E. Moore

**D036356 Manduley v. Superior Court/People-RPI**

**D036456 Rose v. Superior Court/People-RPI**

Matters called on merits. Jo Pastore, Deputy Public Defender argued for petitioner, Rose. William James LaFond, Esq. argued for petitioner, Manduley. Anthony Lovett, Deputy District Attorney argued for real party in interest, The People. Hector Jimenez, Deputy District Attorney argued for real party in interest. Ms. Pastore replied. Mr. LaFond replied. Matter submitted as to D036356 ONLY.

**D036319 Israni v. Superior Court/City of San Diego-RPI**

Matter called on merits. Charles Campbell, Esq. argued for petitioner. Paul G. Edmonson, Deputy City Attorney argued for real party in interest, City of San Diego. Christopher K. Barnette, Esq. argued for real party in interest, Vietnam Veterans of San Diego. Mr. Campbell replied. Matter submitted.

Court recessed at 3 p.m. to change panel members. New panel members: The Honorable Daniel Kremer, Presiding Justice, and The Honorable Associate Justices Judith Haller and Alex McDonald

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January 9, 2001 (Continued)

**D034807        Masters v. SCPIE Holdings, Inc., et al.**

Cause called on merits. Mary Masters, argued for appellant in pro per. Kyle W. Hoffman, Esq. was present in oral argument for respondent, SCPIE Holdings and submitted on the briefs. Alec Mitchell Barinholtz, Esq. was present in oral argument for respondent, National Fire Insurance and submitted on the briefs. Brian A. Rawers, Esq. argued for respondent, Aires. Ms. Masters replied. Cause submitted.

**D034956        In re Brandon P., a Juvenile**

Cause called on merits. Keith H. Rutman, Esq. argued for appellant. Patti W. Ranger, Deputy Attorney General argued for respondent. Cause submitted.

**D036494        Aliso Water Management Agency Employee v. Aliso Water Management Agency**

Cause called on merits. Douglas F. Olins, Esq. argued for appellant. Mary A. Dannelley, Esq. argued for respondent. Cause submitted.

Court recessed at 4 p.m. until Wednesday, January 10, 2001 at 9 a.m.

**D034868        In re Richard S., a Juvenile**

The petition for rehearing is denied.

**D034809        Opdycke v. Shumate et al.**

Within 20 days of the date of this order, appellant is directed to submit a letter brief setting forth where in the record there is evidence a counseling relationship between appellant and Shumate existed at the time Shumate was engaged in sexual relations with appellant's wife. (*See Smith v. Pust* (1993) 19. Cal.App.4th 263, 269-272; *Destafano v. Grabian* (Colo. 1988) 763 P.2d 275, 288-289.) Respondents are directed to file a letter brief responding to the matters set forth in appellant's letter brief within 10 days after service of appellant's brief. The order submitting the case is vacated. The matter will be submitted upon receipt of the parties' letter briefs. Benke, APJ

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**D036909        In re ERIKA STOCK et al., Juveniles**

The attorney for petitioner Anna R. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate under Rule 39.1B will not be filed as there are no viable issues for writ review. The case is DISMISSED.

**D036594        In re Castaneda on Habeas Corpus**

The petition is denied.

**D036678        In re Woodruff on Habeas Corpus**

The petition is denied.

**D036597        In re Del Rio on Habeas Corpus**

The petition is denied.

**D036668        In re Emilio V., a Juvenile**

The appeal is dismissed. Kremer, P.J.; We Concur: Haller, J., McIntyre, J.

**D033847        People v. Slovik**

The judgment is reversed in part as to the third prior serious felony conviction strike and enhancement. The enhancements on the two stayed prison priors are stricken. The trial court is directed to correct the abstract of judgment accordingly, to impose an aggregate sentence of 35 years to life, and to forward the corrected copy of the judgment to the Department of Corrections. In all other respects, the judgment is affirmed. Work, Acting P.J.; We Concur: Huffman, J., McDonald, J.

**D037102        Tiangco v. Superior Court of the County of San Diego**

The transfer is denied.

**D036342        In re Gonsalves on Habeas Corpus**

The petition is denied.

Court convened at 9:00 a.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and James McIntyre  
Deputy Clerk: D. E. Moore

**D036414        Leduc v. Board of Trustees of Capistrano U.S.D.**

Cause called on merits. Gregory Alan Wedner, Esq. argued for respondent. Allan Hahn, Esq. argued for appellant. Cause submitted.

**D035101        In re Charles M., a Juvenile**

Cause called on merits. Carl M. Hancock, Esq. argued for appellant. Melissa Mandel, Deputy Attorney General argued for respondent. Mr. Hancock replied for appellant. Cause submitted.

COURT OF APPEAL OF STATE OF CALIFORNIA  
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DIVISION ONE

January 10, 2001 (Continued)

**D033926        People v. Wauneka**

Cause called on merits. Roberta K. Thyfault, Esq. argued for appellant. Robert Foster, Deputy Attorney General argued for respondent. Ms. Thyfault replied for appellant. Cause submitted.

**D035106        Brooks v. American Tool & Engineering**

Cause called on merits. Mike Sayre, Esq. argued for appellant. John Hamilton Stephens, Esq. argued for respondent. Mr. Sayre replied for appellant. Cause submitted.

Court recessed at 10 a.m. until 1:30 p.m.

Court reconvened at 1:30 p.m.

Present: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and James McIntyre

Deputy Clerk: D. E. Moore

**D036419        Expressions at Rancho Niguel Association et al. v. Monier, Inc.**

Cause called on merits. William Anthony Robles, Esq. argued for appellant. Philip W. Green, Esq. argued for respondent, Ahmanson Developments, Inc. Michael Dicks, Esq. argued for respondent, Expressions at Rancho Niguel Association. Mr. Robles replied for appellant. Cause submitted.

**D035504        Mailhot v. City of San Diego/Redevelopment Agency of the City of San Diego**

Cause called on merits. James Bruce Henderson, Esq. argued for appellant. Leslie Girard, Deputy City Attorney argued for respondent. Mr. Henderson replied for appellant. Cause submitted.

**D035314        Rimmer v. Galascione et al.**

Cause called on merits. David A. Niddrie, Esq. argued for appellant. Jeffrey N. Garland, Esq. argued for respondent. Mr. Niddrie replied for appellant. Cause submitted.

**D033435        WHGF Real Estate Ltd. Partnership v. Duarte et al.**

Cause called on merits. Anthony Joseph Romano, Esq. argued for appellant. Gary J. Stephenson, Esq. argued for respondent/cross-appellant, Duarte. Jess R. Bressi, Esq. argued for respondent, WHGF Real Estate Ltd. Partnership. Mr. Romano replied. Mr. Stephenson replied. Cause submitted.

Court recessed at 4 p.m. until Thursday, January 11, 2001 at 9:00 a.m.

COURT OF APPEAL OF STATE OF CALIFORNIA  
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DIVISION ONE

January 11, 2001

Court convened at 9:00 a.m.

Present: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Terry O'Rourke  
Deputy Clerk: D. E. Moore

**D036456        People v. Sprague**

Cause called on merits. Gregory L. Rickard, Esq. argued for appellant. Ronda Cartright-Ledendorf, Deputy Attorney General argued for respondent. Cause submitted.

**D036447        Mansdorf v. Irvine Medical Center**

Cause called on merits. Barbara Bennett, Esq. argued for respondent. Martin J. Kirwan, Esq. argued for appellant. Ms. Bennett replied. Cause submitted.

Court recessed at 9:20 a.m. to change panel members. New panel members: The Honorable Richard Huffman, Acting Presiding Justice, and The Honorable Associate Justices James McIntyre and Terry O'Rourke

**D033680        People v. De La Torre**

Cause called on merits. Glen Niemy, Esq. argued for appellant. Vince Rabago, Deputy Attorney General argued for respondent. Mr. Niemy replied for appellant. Cause submitted.

**D035820        Fox v. Dorf et al.**

Cause called on merits. Linda Beresford, Esq. argued for appellant. Jon Evan Taylor, Esq. argued for respondent. Ms. Beresford replied for appellant. Cause submitted.

Court adjourned at 10:05 a.m.

**D035899        In re Jordan D., a Juvenile**

The judgment is affirmed. Haller, J.; We Concur: Kremer, P.J., Huffman, J.

**D034870        People v. Farmer**

Judgment affirmed. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

**D033705        People v. Soto**

The judgment is affirmed. Huffman, J., We Concur: Kremer, P.J., Haller, J.

**D035722        Sands, Inc. v. Millicent Hultenius**

The judgment is affirmed. The matter is remanded to the trial court for an award of reasonable attorney fees and costs incurred by Hultenius on appeal. Nares, J.; We Concur: Huffman, Acting P.J., McIntyre, J.

**D030752        Shahhal v. CNA Financial Corporation et al.**

The judgments are affirmed. Kremer, P.J.; We Concur: Huffman, J., Haller, .



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January 11, 2001 (Continued)

**D036498 People v. Bodiford**

The judgment is affirmed. Nares, J.; We Concur: Huffman, Acting P.J., McIntyre, J.

**D031288 People v. Thomas et al.**

The judgments are affirmed. Work, Acting P.J.; We Concur: Benke, J., Huffman, J.

**D034767 People v. Caldwell**

Judgment affirmed. McIntyre, J.; We Concur: Kremer, P.J., Haller, J.

**D036408 Nguyen v. Wild Cat Protection, Inc.**

The judgment is affirmed. Costs are awarded to respondent. McIntyre, J.;  
We Concur: Benke, Acting P.J., O'Rourke, J.

**D036977 In re Mora on Habeas Corpus**

The petition is denied.

**D036663 Shanneicia W., v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The petition is denied. Kremer, P. J.; We Concur: Haller, J., McIntyre, J.

**D034215 Croteau et al., v. Bradley's Towing, Inc.**

The judgment is affirmed. Bradley's is awarded costs on appeal. O'Rourke, J.;  
We Concur: Huffman, Acting P.J., Haller, J.

**D036505 Overland Mechanical, Inc., v. Centex Golden Construction Company**

Upon written request filed by appellant, the appeal is DISMISSED and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 19(b)).

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

January 12, 2001

**D036412        People v. Guzman-Arellano**

The judgment is affirmed. O'Rourke, J.; We Concur: Benke, J., McIntyre, J.

**D034771        In re Marriage of Henry**

The order is affirmed. Work, Acting P.J.; We Concur: Huffman, J., McDonald, J.

**D033786        People v. Lay**

The section 1202.45 restitution fine is stricken. As so modified, the judgment is affirmed. Haller, J.; We Concur: Kremer, P.J., Nares, J.

**D036261        People v. R. J. Reynolds Tobacco Company**

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately. Each party to bear own costs on appeal.

**D036338        In re Martinez on Habeas Corpus**

The petition is denied.

**D037152        Carto et al. v. Superior Court of San Diego County/Legion for the Survival of Freedom, Inc.**

The petition is denied.

**D035524        People v. Cooper**

This case has twice been subject of sentencing hearings and twice been the subject of appellate review. The parties have had a full opportunity to present the legal and factual arguments relevant to whether Cooper's strikes should be dismissed. We conclude there is no reasonable basis for such dismissal. The order dismissing Cooper's priors is reversed, the matter is remanded to the trial court with the direction that it reinstate the strike findings and sentence Cooper as a person who has suffered three prior strikes. (See People v. Gaston (1999) 74 Cal.App.4<sup>th</sup> 310, 323.) In all other respects, the judgment is affirmed. Benke, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

**D033080        Molnar v. Regents of the University of California et al.**

The petition for rehearing is denied.

**D036047        In re Lexie R. et al., Juveniles**

Judgment affirmed. Benke, Acting P.J.; We Concur: Huffman, J., McDonald, J.

**D034983        Grovue v. Chen**

The judgment is affirmed. Chen is awarded costs on appeal. O'Rourke, J., We Concur: Benke, Acting P.J., McIntyre, J.

**D035736        In re Ingrid P., a Juvenile**

The juvenile court's order is affirmed. McDonald, J.; We Concur: Kremer, P.J., Nares, J.

COURT OF APPEAL OF STATE OF CALIFORNIA  
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DIVISION ONE

January 12, 2001 (Continued)

**D035981        In re P.H., a Juvenile**

The order denying Mandy's section 388 petition and the order selecting adoption as P.H. and C.H.'s permanent plan and terminating Mandy's parental rights are affirmed. Haller, J.;

We Concur: Kremer, P.J., Nares, J.